

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS Lisa Harmon 408 Knobsville Road McConnellsburg, PA 17233 (b) County of Residence of First Listed Plaintiff <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i>		DEFENDANTS JLG Industries, Inc. 1 JLG Drive McConnellsburg, PA 17233 County of Residence of First Listed Defendant <i>(IN U.S. PLAINTIFF CASES ONLY)</i>		
		NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.		
(c) Attorneys (Firm Name, Address, and Telephone Number) Graham F. Baird, Law Office of Eric A. Shore 2 Penn Center, 1500 JFK Blvd, Suite 1240, Phila, PA 19102 Tel: 267-546-0131		Attorneys (<i>If Known</i>)		
II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i>		III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i>		
<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i>	Citizen of This State	<input type="checkbox"/> PTF 1 <input type="checkbox"/> DEF 1 Incorporated or Principal Place of Business In This State	
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i>	Citizen of Another State	<input type="checkbox"/> PTF 2 <input type="checkbox"/> DEF 2 Incorporated and Principal Place of Business In Another State	
		Citizen or Subject of a Foreign Country	<input type="checkbox"/> PTF 3 <input type="checkbox"/> DEF 3 Foreign Nation	
IV. NATURE OF SUIT <i>(Place an "X" in One Box Only)</i>		Click here for: Nature of Suit Code Descriptions .		
CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine Product Liability <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	PROPERTY RIGHTS	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input checked="" type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	
			SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	
			FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
V. ORIGIN <i>(Place an "X" in One Box Only)</i>		<input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from Another District <i>(specify)</i> <input type="checkbox"/> 6 Multidistrict Litigation - Transfer <input type="checkbox"/> 8 Multidistrict Litigation - Direct File		
VI. CAUSE OF ACTION		Cite the U.S. Civil Statute under which you are filing (<i>Do not cite jurisdictional statutes unless diversity</i>): 42 U.S.C.A. § 12101 et seq		
		Brief description of cause: Americans with Disabilities Act		
VII. REQUESTED IN COMPLAINT:		<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.	DEMAND \$ 150,000	
VIII. RELATED CASE(S) IF ANY		CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
(See instructions):		JUDGE _____	DOCKET NUMBER _____	
DATE 7/13/2021	SIGNATURE OF ATTORNEY OF RECORD 			
FOR OFFICE USE ONLY				
RECEIPT # _____	AMOUNT _____	APPLYING IFP _____	JUDGE _____	MAG. JUDGE _____

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

LISA HARMON	:	
408 Knobsville Road	:	
McConnellsburg, PA 17233	:	
	:	JURY OF TWELVE DEMANDED
Plaintiff,	:	
	:	
v.	:	
	:	
JLG INDUSTRIES, INC.	:	No.:
1 JLG Drive	:	
McConnellsburg, PA 17223	:	
	:	
Defendants	:	

CIVIL ACTION COMPLAINT

I. Parties and Reasons for Jurisdiction.

1. Plaintiff, LISA HARMON (hereinafter "Plaintiff") is an adult individual residing at the above address.
2. Defendant, JLG INDUSTRIES, INC. (hereinafter "Defendant") is a business corporation organized and existing under the laws of the Commonwealth of Pennsylvania with a principal place of business at the address captioned above.
3. At all times material hereto, Defendant employed Plaintiff at its 1 JLG Drive, McConnellsburg location as set forth above and qualified as Plaintiff's employer under the Americans with Disabilities Act and the Pennsylvania Human Relations Act ("PHRA").
4. Plaintiff exhausted her administrative remedies pursuant to the Equal Employment Opportunity Act and the Pennsylvania Human Relations Act. (See Exhibit A, a true and correct copy of a dismissal and notice of rights issued by the Pennsylvania Human Relations Commission.)

5. This action is instituted pursuant to the Americans with Disabilities Act, the Family and Medical Leave Act, the Pennsylvania Human Relations Act and applicable federal and state law.

6. This Honorable Court has subject matter jurisdiction over this lawsuit.

7. Venue is properly laid in this district because Defendant conducts business in this district, and because a substantial part of the acts and/or omissions giving rise to the claims set forth herein occurred in this judicial district. Plaintiff was working for Defendant in the Middle District of Pennsylvania at the time of the illegal actions by Defendant as set forth herein.

II. Operative Facts.

8. On or about December 4, 2017, Plaintiff was hired by Defendant as a Material Support worker.

9. At all times material to her employment with Defendant, Plaintiff was qualified for her position and performed all her job duties to Defendant's satisfaction and without any complaint or issue.

10. At all times material to her employment with Defendant, Plaintiff had a deteriorating disc in her lumbar spine due to a previous injury.

11. During the course of her employment, Plaintiff re-injured her back due to her job duties which included lifting fifteen (15) pound crates throughout the day.

12. On or about January 17, 2019, Plaintiff applied for and Defendant approved an FMLA leave so Plaintiff could undergo treatment for her disability.

13. Plaintiff was informed by her physician that she was not cleared to return to work until approximately October of 2019.

14. Plaintiff informed Defendant that she would be likely to return in October without restrictions per the instructions of her doctor.

15. On or about July 16, 2019, Plaintiff received a call from Defendant's human resources representative, Jessica Hayhurst.

16. During this call, Ms. Hayhurst indicated that if Plaintiff was unable to return to work without restrictions, her employment would be terminated.

17. Defendant was aware that Plaintiff was not cleared to return to work without restrictions until at least October of 2019.

18. On July 16, 2019, Plaintiff received a letter from Ms. Hayhurst indicating that her employment with Defendant was terminated.

19. Defendant failed to accommodate Plaintiff in violation of the Americans with Disabilities Act.

20. Defendant failed to engage in a meaningful back and forth discussion with Plaintiff about an accommodation.

21. As set forth above, Defendant terminated Plaintiff's employment because of her disability.

22. As a direct and proximate result of Defendant's conduct in terminating Plaintiff, Plaintiff sustained great economic loss, future lost earning capacity, lost opportunity, loss of future wages, as well emotional distress, pain and suffering and other damages as set forth below.

III. Causes of Action.

COUNT I– AMERICANS WITH DISABILITIES ACT (42 U.S.C.A. § 12101 et seq) (Plaintiff v. Defendants)

23. Plaintiff incorporates paragraphs 1-22 as if fully set forth at length herein.
24. At all times material hereto, and pursuant to the Americans with Disabilities Act of 1990, 42 U.S.C. §12101, et seq., an employer may not discriminate against an employee based on a disability.
25. Plaintiff is a qualified employee and person within the definition of Americans with Disabilities Act of 1990, 42 U.S.C. §12101, et seq.
26. Defendants are an “employer” and thereby subject to the strictures of the Americans with Disabilities Act of 1990, 42 U.S.C. §12101, et seq.
27. At all times material hereto, Plaintiff had a qualified disability, as described above.
28. Defendants failed to accommodate or otherwise engage in a meaningful back and forth towards the development of a reasonable accommodation.
29. Defendants’ conduct in terminating Plaintiff is an adverse action, was taken as a result of her disability and constitutes a violation of the Americans with Disabilities Act of 1990, 42 U.S.C. §12101, et seq.,
30. As a proximate result of Defendants’ conduct, Plaintiff sustained significant damages, including but not limited to: great economic loss, future lost earning capacity, lost opportunity, loss of future wages, loss of front pay, loss of back pay, liquidated damages as well as emotional distress, pain and suffering, consequential damages and Plaintiff has also sustained work loss, loss of opportunity, and a permanent diminution of her earning power and capacity and a claim is made therefore.
31. As a result of the conduct of Defendants’ owners/management, Plaintiff hereby demands punitive damages.

32. Pursuant to the Americans with Disabilities Act of 1990, 42 U.S.C. §12101, et seq

Plaintiff demands attorneys fees and court costs.

**COUNT II – VIOLATION OF THE PENNSYLVANIA HUMAN RELATIONS ACT
(43 P.S. § 955)**

33. Plaintiff incorporates paragraphs 1-32 as if fully set forth at length herein.

34. At all times material hereto, and pursuant to the Pennsylvania Human Relations Act, 43 P.S. § 951, et seq., an employer may not discriminate against an employee based on a disability.

35. Plaintiff is a qualified employee and person within the definition of Pennsylvania Human Relations Act, 43 P.S. § 951, et seq.,

36. Defendant is an “employer” and thereby subject to the strictures of the Pennsylvania Human Relations Act, 43 P.S. § 951, et seq..

37. At all times material hereto, Plaintiff had a qualified disability, as described above.

38. Defendant’s conduct in terminating Plaintiff is an adverse action, was taken as a result of her disability and constitutes a violation of the Pennsylvania Human Relations Act, 43 P.S. § 951, et seq.,

39. Defendant failed to accommodate Plaintiff’s disability.

40. As a proximate result of Defendant’s conduct, Plaintiff sustained significant damages, including but not limited to: great economic loss, future lost earning capacity, lost opportunity, loss of future wages, loss of front pay, loss of back pay, loss of tips as well as personal injury, emotional distress, pain and suffering, consequential damages and Plaintiff has also sustained work loss, loss of opportunity, and a permanent diminution of her earning power and capacity and a claim is made therefore.

41. Pursuant to the Pennsylvania Human Relations Act, 43 P.S. § 951, et seq.,

Plaintiff demands attorneys fees and court costs.

**COUNT III – VIOLATION OF FMLA—RETALIATION
(29 U.S.C. §2601 et seq.)**

42. Plaintiff incorporates paragraphs 1-41 as if fully set forth at length herein.

43. As set forth above, Plaintiff was entitled to medical leave pursuant to the FMLA, 29 U.S.C. §2601, et seq.

44. As described above, Defendants terminated Plaintiff's employment, an adverse action, in retaliation for her exercising her rights to take FMLA leave.

45. Defendants' motivation in terminating Plaintiff's employment was based, in part, upon her application and utilization of FMLA leave.

46. As a proximate result of Defendants' conduct, Plaintiff sustained significant damages, including but not limited to: great economic loss, future lost earning capacity, lost opportunity, loss of future wages, loss of front pay, loss of back pay, as well as emotional distress, pain and suffering, consequential damages and Plaintiff has also sustained work loss, loss of opportunity, and a permanent diminution of her earning power and capacity and a claim is made therefore.

47. As a result of the conduct of Defendants' owners/management, Plaintiff hereby demands punitive and/or liquidated damages.

48. Pursuant to the Family and Medical Leave Act of 1993, 29 U.S.C. §2601, et seq Plaintiff demands attorneys fees and court costs.

IV. Relief Requested.

WHEREFORE, Plaintiff LISA HARMON demands judgment in her favor and against Defendant, JLG INDUSTRIES, INC. in an amount in excess of \$150,000.00 together with:

- A. Compensatory damages, including but not limited to: back pay, front pay, past lost wages, future lost wages. Lost pay increases, lost pay incentives, lost opportunity, lost benefits, lost future earning capacity, injury to reputation, mental and emotional distress, pain and suffering
- B. Punitive damages;
- C. Attorneys fees and costs of suit;
- D. Interest, delay damages; and,
- E. Any other further relief this Court deems just proper and equitable.

LAW OFFICES OF ERIC A. SHORE, P.C.

BY: 
GRAHAM F. BAIRD, ESQUIRE
Two Penn Center
1500 JFK Boulevard, Suite 1240
Philadelphia, PA 19110
Attorney for Plaintiff, Lisa Harmon

Date: 7/13/2021

EXH. A



December 15, 2020

Lisa Harmon
408 Knox Street
Mc Connellsburg, PA 17233

RE: Lisa Harmon Vs. JLG Industries, Inc.

Case No. 201902096
EEOC No. 17F202060147

Dear Lisa Harmon,

It has been one year since you filed your complaint with the Pennsylvania Human Relations Commission. This is to notify you that you now have the right to bring an action in the appropriate Pennsylvania Court of Common Pleas based on the alleged violations of the PHRAAct contained in your Commission complaint. This right is provided under Section 12(c) of the Human Relations Act, 43, P.S. § 962(c).

Please be advised that you are not required to file such an action in the State Court of Common Pleas. The Commission is continuing to process your case, and we will make every effort to resolve it as soon as possible. If we are not notified otherwise, we will assume that you want the Commission to continue handling your case.

If you do file a complaint in a Court of Common Pleas, the Commission will dismiss your complaint. This means that you will be unable to have the Commission decide your case even if your complaint is dismissed in State Court because of a procedural error. Procedural errors may include filing the complaint in State Court in the wrong county or filing in State Court after your time to file has expired. For this reason, you should make every effort to assure that any complaint you file in State Court will be properly filed before you file it.

If you believe you might want to take your case to State Court, we suggest that you consult a private attorney about representing you in that action. This should be done before you file the complaint so that your attorney may advise you on the best course of action for you to take.

Should you file a complaint in State Court, you are required by Section 12(c)(2) of the PHRAAct to serve the Human Relations Commission with a copy of the Court complaint. This copy must be served on the Commission at the same time you file it in Court. The copy is to be sent to:

Chief Counsel
Pennsylvania Human Relations Commission Executive Offices
333 Market Street, 8th Floor
Harrisburg, PA 17104-2210

If you have any questions concerning this matter, please feel free to contact the investigator who is handling your case.

Very Truly yours,

A handwritten signature in black ink that reads "Jinada Rochelle".

Jinada Rochelle
Enforcement Office
cc: Scott K. Johnson, Esq.